

APR 21 2006

PTO/SB/21 (09-04)

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FORM

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Total Number of Pages in This Submission

22

Application Number

10/638,096

Filing Date

August 7, 2003

First Named Inventor

Levik Kodavardian et al.

Art Unit

3723

Examiner Name

Hadi Shakeri

Attorney Docket Number

Bona US 4 CVL

ENCLOSURES (Check all that apply)



Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/
Incomplete ApplicationReply to Missing Parts
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a
Provisional Application

Power of Attorney, Revocation



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CD, Number of CD(s) _____

☐ Landscape Table on CD

After Allowance Communication to TC

Appeal Communication to Board
of Appeals and InterferencesAppeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify
below):

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Kleas, Law, O'Meara & Malkin, P.C.

Signature

R W Nelson

Printed name

Robert W. Nelson, Esq.

Date

April 21, 2006

Reg. No.

37,898

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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

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Kalyn Black

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Kalyn Black

Date

April 21, 2006

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FEE TRANSMITTAL **For FY 2006**

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) **250.00**

Complete If Known

Application Number	10/638,096
Filing Date	August 7, 2003
First Named Inventor	Levik Kodaverdian et al.
Examiner Name	Hadi Shakeri
Art Unit	3723
Attorney Docket No.	Bona US 4 CVL

METHOD OF PAYMENT (check all that apply)

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FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
Total Claims	Extra Claims	Fee (\$)
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20.		
Indep. Claims	Extra Claims	Fee (\$)
- 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3.		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	_____ / 50 = _____	(round up to a whole number) x _____	= _____	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief

Fees Paid (\$)

\$ 250.00

SUBMITTED BY

Signature <u>Robert W. Nelson</u>	Registration No. (Attorney/Agent) <u>37,898</u>	Telephone (303) <u>298-9888</u>
Name (Print/Type) <u>Robert W. Nelson, Esq.</u>	Date <u>April 21, 2006</u>	

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APR 21 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Levik Kodaverdian, et al.

Serial No.: 10/638,096

Filed: August 7, 2003

For: FLOOR EDGER

Confirmation No.: 3381

Group Art Unit: 3723

Examiner: Hadi Shakeri

Atty. Docket: Bona US 4 CVL

APPEAL BRIEF

To: Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Final Office Action mailed on January 4, 2005, and a Notice of Appeal mailed on February 21, 2006, the applicants appeal as follows:

04/25/2006 SSITHIB1 00000082 111150 10638096

01 FC:2402 250.00 DA

Serial Number: 10/638,096
Docket No.: Bona US 4 CVL

1

This brief contains items under the following headings as required by 37 CFR §41.37 and MPEP §1206:

- I. Real Party In Interest
- II. Related Appeals, Interferences and Judicial Proceedings
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to be Reviewed on Appeal
- VII. Argument
- VIII. Claims
- IX. Evidence
- X. Related Proceedings

Appendix A	Claims
Appendix B	Evidence
Appendix C	Related Proceedings

(I) REAL PARTY IN INTEREST

The real party in interest in the above-referenced patent application is BonaKemi USA, Inc. of 14805 E. Moncrieff Place, Aurora, Colorado.

(II) RELATED APPEALS, INTERFERENCES AND JUDICIAL PROCEEDINGS

There are no related appeals, interferences or judicial proceedings currently known to the Appellants, Appellants' legal representatives or the assignee, which will directly affect, or be directly affected by, or have a bearing on, the Board's decision.

(III) STATUS OF CLAIMS

Claims 1-9, 11-13, 15-24, 26-28, 30, and 32-35 are pending. All pending claims stand rejected. The rejections of all claims are appealed.

(IV) STATUS OF AMENDMENTS

No amendments were filed or entered subsequent to the final rejection mailed November 21, 2005.

(V) SUMMARY OF THE CLAIMED SUBJECT MATTER

The invention as claimed is summarized below with reference numerals and references to the specification and drawings. The invention is broadly set forth in the language corresponding to independent claims 1 and 17. Discussions about elements of the invention can be found at least at the locations in the specification and drawings cited in the claims below.

1. A wood floor edger (100) comprising:

a first housing (104) comprising a first opening, a second opening, a third opening, and a rotatable abrasive disc (274) located proximate said first opening, said rotatable abrasive disc (274) having a diameter greater than six inches; [page 2, lines 13-14; Page 2, line 29 to page 3, line 2; page 4, line 20; Figs. 1 and 5]

a motor (110) at least partially located in said second opening and drivingly connected to said abrasive disc; [Page 6, lines 13-16; Figs. 1 and 5]

a fan (250) located in said first housing (120), said fan (250) being drivingly connected to said motor (110); [page 3, lines 29-31; Page 6, lines 12-16; Fig. 5; paragraph added on October 22, 2004 at page 4 after line 26] and

an air path extending between said first opening and said third opening by way of said fan. [Page 3, lines 26-31; Page 4, lines 20-25; Fig. 5; paragraph added on October 22, 2004 at page 4 after line 26]

17. A wood floor edger (100) comprising:

a first housing (104) comprising a first opening, a second opening, a third opening, and a rotatable abrasive disc located adjacent said first opening; [Page 2, line 29 to page 3, line 2; page 4, line 20; Figs. 1 and 5]

a motor at least partially located in said second opening and drivingly connected to said abrasive disc; [Page 6, lines 13-16; Figs. 1 and 5]

a fan located in said first housing and proximate said third opening, said fan being drivingly connected to said motor; [page 3, lines 29-31; Page 6, lines 12-16; Fig. 5; paragraph added on October 22, 2004 at page 4 after line 26]

an air path extending between said first opening and said third opening by way of said fan; [Page 3, lines 26-31; Page 4, lines 20-25; Fig. 5; paragraph added on October 22, 2004 at page 4 after line 26] and

a motor controller electrically connected to said motor; [Page 6, lines 17-24; Fig. 2]

wherein said motor is operatable at a speed that is preselected by said motor controller. [Page 6, line 31 to page 7, line 6]

(VI) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 4, 9, 11-17, 20-24, 26-28, 30, and 33-35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gurstein et al. (5,870,791) in view of any one of Barous, Palushi, or Stewart.

Claims 2-8, 18-23, and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gurstein et al. (5,870,791) in view of any one of Barous, Palushi, or Stewart as applied to claims 1 and 17, further in view of McCutchen (6,540,598).

The appellant contends that the rejections are in error.

(VII) ARGUMENT

I. Rejection of Claims 1, 4-9, 11-17, 20-24, 26-28, 30, 31, 33, and 34 Under 35 U.S.C. §103(a)

Claims 1, 4, 9, 11-17, 20-24, 26-28, 30, 33, and 34 were rejected under 35 U.S.C. §102(b) as being unpatentable over Gurstein et al. (5,870,791) in view of any one of Barous (5,890,954), Palushi (6,616,517) or Stewart (6,027,399).

CLAIM 1

Claim 1 is printed as follows for convenience:

A wood floor edger comprising:

a first housing comprising a first opening, a second opening, a third opening, and a rotatable abrasive disc located proximate said first opening, said rotatable abrasive disc having a diameter greater than six inches;

a motor at least partially located in said second opening and drivingly connected to said abrasive disc;

a fan located in said first housing, said fan being drivingly connected to said motor; and

an air path extending between said first opening and said third opening by way of said fan.

Claim 1 includes a first housing that has at least three openings. An abrasive disc is located proximate the first opening. Thus, the first opening may be the bottom of the edger that is located adjacent a floor during use. The motor is at least partially located in the second opening. The fan is located in the first housing and is connected to the motor. An air path extends between the first opening and the third opening by way of the fan. Thus, the third opening may be a port or the like used to exhaust debris from the first housing. It is noted that the first, second and third openings are distinct openings in the first housing.

According to the final office action, Gurstein discloses all the elements of claim 1 except a third opening or port in the first housing wherein an air path is defined between the third opening and the first opening by way of the fan. The office action further states that vacuum ports are known in the art as shown by Barous, Palushi and Stewart. The office action concludes that it would have been obvious to modify

Gurstein with a port and a vacuum device as taught by anyone of Barous, Palushi and Stewart.

The appellants begin their rebuttal by noting that the fan (18) disclosed in Gurstein is located proximate the motor (8) and is used for cooling the motor (8). The operation of the fan (18) disclosed in Gurstein is described at column 5, lines 51-65 as follows:

Cooling fan 18 sucks air in through air inlet slots 24 and out under motor cover 22 through grooves 15, cooling both motor 8 and an upper surface of deck 14 while floor polisher 1 is in operation. The air flow is divided in two directions, along the top of deck 14 along grooves 15 under motor cover 22, and also straight down through cooling fan 18 through the fins of motor 8. The two directions of the air flow created by cooling fan 18 are shown by the arrows A and B in FIG. 3. This cooling feature facilitates the cooling of motor 8 and the motor controller 25 which includes power factor correction means mounted on the reverse side of deck 14. This cooling system is of primary importance to the operation of floor polisher 1, as failure to adequately cool the motor controller 25 serving brushless D.C. or light weight motor 8 will quickly result in burnout of the controller.

Per the description of Gurstein, the fan (18) serves to cool the motor (8) by blowing air past the motor (8). The appellants note that the air flow of Gurstein does not blow air from the first housing (4) past the motor (8). If Gurstein had such a modification, the air flow would cause debris to be blow into the motor (8) and then into a room in which the device is being operated. If the air flow of Gurstein was modified to blow from the motor (8) into the housing (4), debris would be blow out of the housing (4). Accordingly, Gurstein does not teach or suggest any of these modifications.

Claim 1, unlike Gurstein, has the fan located in an air path between the first opening and the third opening. Thus, the fan may facilitate the removal of dust and

debris from the first housing without blowing the dust and debris past the motor and onto the room in which the edger is operating. The appellants note that there is no airflow between the first opening and the second opening. Such a configuration would blow debris in the motor or throughout the room in which the edger is being operated.

In order to modify Gurstein as suggested by the office action, one would have to include a third opening, wherein air flow would pass between the new third opening and the first opening by way of the fan. As stated above, the configuration of the fan of Gurstein does not teach the fan recited in claim 1. According to the final office action, such a modification is obvious by a combination of Gurstein with any one of Barous, Palushi or Stewart. Barous, Palushi and Stewart all disclose vacuum ports for removing debris via a vacuum port. As set forth below, such combinations do not teach claim 1 and do not include all the elements of claim 1.

The combination of Gurstein with Barous, Palushi or Stewart does not disclose the elements of claim 1 as set forth in the final office action. Barous, Palushi and Stewart all disclose vacuums to withdraw dust and debris from a sander or the like. However, these combinations do not disclose "an air path extending between said first opening and said third opening by way of said fan" as claimed in claim 1. Thus, the suggested combination would locate the fan (18) of Gurstein in an air path between a first opening and a third opening. The air flow to the second opening would be eliminated and the motor (8) would not be cooled. Such a configuration is at odds with the teachings of Gurstein, which teaches that the fan (18) is crucial for cooling the motor (8).

Based on the forgoing, there is no motivation for the suggested combination. For example, the suggested combination is contrary to the teachings of Gurstein and would not work when implemented into Gurstein.

Based on the foregoing, the appellants contend that claim 1 is allowable and request reconsideration of the rejection.

CLAIMS 4-9, and 11-13

Claims 4-9, and 11-13 are deemed allowable by way of their dependence on claim 1 and for other reasons. Accordingly, claims 4-9, 11, and 13 stand or fall with claim 1.

CLAIM 15

Claim 15 is dependent on claim 1 and recites the following:

The wood floor edger of claim 1, and further comprising a second housing having a handle attached thereto.

Claim 15 is directed to the wood floor edger comprising a second housing wherein a handle is attached to the second housing. According to the final office action, Gurstein meets all the limitations of a second housing, wherein the second housing is a frame (3).

As shown in Figs. 2-4 of Gurstein, the handle (26) is connected to a housing (4) that contains a disc. Thus, the housing (4) of Gurstein has to correspond to the first housing of claim 1. The appellants note that the frame (3) recited in the final office action is part of the housing (4). Accordingly, the handle (26) of Gurstein is connected to a first housing and not a second housing as claimed in claim 15.

Based on the foregoing, Gurstein does not meet all the limitations of claim 15 as stated in the final office action. The appellants request reconsideration of the rejection.

CLAIM 16

Claim 16 is dependent on claim 15 will stand or fall with claim 15.

CLAIM 17

Claim 17 is independent and recites the following:

A wood floor edger comprising:
a first housing comprising a first opening, a second opening, a third opening, and a rotatable abrasive disc located adjacent said first opening;
a motor at least partially located in said second opening and drivingly connected to said abrasive disc;
a fan located in said first housing and proximate said third opening, said fan being drivingly connected to said motor;
an air path extending between said first opening and said third opening by way of said fan; and
a motor controller electrically connected to said motor;
wherein said motor is operatable at a speed that is preselected by said motor controller.

Claim 17 was rejected on the same grounds as claim 1. Therefore, claim 17 will stand or fall with claim 1.

CLAIMS 20-24, 26-28, and 33-35

Claims 20-24, 26-28, and 33-35 are deemed allowable by way of their dependence on claim 17 and for other reasons. Therefore, the appellants contend that they either stand or fall with claim 17.

CLAIM 30

Claim 30 is dependent on claim 17 and recites the following:

The wood floor edger of claim 17, and further comprising a second housing having a handle attached thereto.

Claim 30 is similar to claim 15 and will, thus, stand or fall with claim 15.
Based on the foregoing, the applicants request reconsideration of the rejection.

III. Rejection of Claims 2-8, 18-23, and 32 Under 35 U.S.C. §103(a)

Claims 2-8, 18-23, and 32 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gurstein et al. (5,870,791) in view of McCutchen (6,540,598).

Claims 2-8, 18-23, and 32 are dependent on allowable base claims 1 and 17 and are deemed allowable by way of their dependence and for other reasons. Claims 2-8, 18-23, and 32 will stand or fall with their respective base claims.

IV. Rejection of Claims 12, 14, 27, and 29 Under 35 U.S.C. §103(a)

Claims 12, 14, 27, and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gurstein et al. (5,870,791) either alone or in view of McCutchen (6,540,598), and further in view of anyone of Barous, Palushi, or Stewart.


Claims 12, 14, 27, and 29 are dependent on allowable base claims and are deemed allowable by way of their dependence and for other reasons. Claims 12, 14, 27, and 29 will stand or fall with their respective base claims.

In view of the above, all of the pending claims are now believed to be in condition for allowance and a notice to that effect is earnestly solicited.

Respectfully submitted,
KLAAS, LAW, O'MEARA & MALKIN, P.C.

Dated: April 21, 2006

By:


Robert W. Nelson
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Denver, CO 80202
Tel: (303) 298-9888
Fax: (303) 297-2266

APPENDIX A - CLAIMS

Claim 1: A wood floor edger comprising:
a first housing comprising a first opening, a second opening, a third opening, and a rotatable abrasive disc located proximate said first opening, said rotatable abrasive disc having a diameter greater than six inches;
a motor at least partially located in said second opening and drivingly connected to said abrasive disc;
a fan located in said first housing, said fan being drivingly connected to said motor; and
an air path extending between said first opening and said third opening by way of said fan.

Claim 2: The wood floor edger of claim 1, wherein said rotatable abrasive disc has a diameter of about seven inches.

Claim 3: The wood floor edger of claim 1, wherein the weight of said wood floor edger is about twenty-seven pounds.

Claim 4: The wood floor edger of claim 1, wherein said motor is rotatable at a speed of greater than ten-thousand revolutions per minute.

Claim 5: The wood floor edger of claim 1, wherein said motor is rotatable at a speed of about ten-thousand five-hundred revolutions per minute.

Claim 6: The wood floor edger of claim 1, wherein said abrasive disc is rotatable at a speed of about three-thousand two-hundred revolutions per minute.

Claim 7: The wood floor edger of claim 1, wherein said motor has horsepower greater than two.

Claim 8: The wood floor edger of claim 1, wherein said motor has horsepower of about 2.4.

Claim 9: The wood floor edger of claim 1, wherein said motor is connected to said rotatable abrasive disc by a belt.

Claim 10 (cancelled)

Claim 11: The wood floor edger of claim 1, wherein said fan is located within a compartment within said first housing.

Claim 12: The wood floor edger of claim 9, wherein said third opening is located adjacent said fan and wherein a vacuum device is attachable to said third opening.

Claim 13: The wood floor edger of claim 1, and further comprising at least one wheel attached to said first housing.

Claim 14 (cancelled)

Claim 15: The wood floor edger of claim 1, and further comprising a second housing having a handle attached thereto.

Claim 16: The wood floor edger of claim 15, wherein said handle is located opposite said opening of said first housing.

Claim 17: A wood floor edger comprising:
a first housing comprising a first opening, a second opening, a third opening, and a rotatable abrasive disc located adjacent said first opening;
a motor at least partially located in said second opening and drivingly connected to said abrasive disc;
a fan located in said first housing and proximate said third opening, said fan being drivingly connected to said motor;
an air path extending between said first opening and said third opening by way of said fan; and
a motor controller electrically connected to said motor;
wherein said motor is operatable at a speed that is preselected by said motor controller.

Claim 18: The wood floor edger of claim 17, wherein said rotatable abrasive disc has a diameter of about seven inches.

Claim 19: The wood floor edger of claim 17, wherein the weight of said wood floor edger is about twenty-seven pounds.

Claim 20: The wood floor edger of claim 17, wherein said motor is rotatable at a speed of greater than three thousand revolutions per minute.

Claim 21: The wood floor edger of claim 17, wherein said motor is rotatable at a speed of about ten-thousand five-hundred revolutions per minute.

Claim 22: The wood floor edger of claim 17, wherein said motor has horsepower greater than two.

Claim 23: The wood floor edger of claim 17, wherein said motor has horsepower of about 2.4.

Claim 24: The wood floor edger of claim 17, wherein said motor is connected to said rotatable abrasive disc by a belt.

Claim 25 (cancelled)

Claim 26: The wood floor edger of claim 17, wherein said fan is located within a compartment within said first housing.

Claim 27: The wood floor edger of claim 17, wherein a vacuum device is attachable to said third opening.

Claim 28: The wood floor edger of claim 17, and further comprising at least one wheel attached to said first housing.

Claim 29 (cancelled)

Claim 30: The wood floor edger of claim 17, and further comprising a second housing having a handle attached thereto.

Claim 31 (cancelled)

Claim 32: The wood floor edger of claim 1, wherein said wood floor edger has a weight of less than twenty-eight pounds.

Claim 33: The wood floor edger of claim 1, wherein said motor is a brushless motor.

Claim 34: The wood floor edger of claim 30, wherein said motor is located between said first housing and said second housing.

Claim 35: The wood floor edger of claim 30, wherein said handle is located opposite said second opening of said first housing.

APPENDIX B - EVIDENCE

There is no evidence to be presented

Serial Number: 10/638,096
Docker No.: Bona US 4 CVL

APPENDIX C - RELATED PROCEEDINGS

There are no related proceedings.

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